



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION VIII

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Ladies and Gentlemen:

During our meeting on December 17, DOE and EG&G raised several issues for resolution by EPA. Let me phrase those questions and present EPA's response to each:

1. Which emission increases due to decommissioning and decontamination (D&D) or other activities in buildings are subject to the NESHAP requirement to obtain EPA approval for any modification? (i.e., any increase over zero, or an increase over emissions produced when the building was in operation?).

Response: 40 C.F.R. § 61.15(a) defines "modification" as "any physical or operational change to a stationary source which results in an increase in the rate of emission to the atmosphere of a hazardous air pollutant." An "increase" is measured with respect to the time that the physical or operational change occurs. Thus, any physical or operational change at Rocky Flats which will cause an increase over contemporaneous emissions from a building ventilation system is a modification. Usually, this would be any increase over zero, unless there is an equivalent (and permanent) decrease in emissions at the same time, due to some other change. In other words, emission levels recorded during prior operations at Rocky Flats will not be used as a basis for comparison.

At our meeting, EPA emphasized the time period since December 15, 1989. We focused on that time, when the Radionuclide NESHAP was revised to require the methodology for monitoring point source emissions (and provide a partial exemption from the approval requirement for sources in compliance with Subpart H), because Rocky Flats has been in violation of Subpart H since then. We were not looking back to 1985, when no exemption was available,

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for compliance with the approval requirement. (Please see response to question 3, below.)

2. Specifically, is the super-compactor considered a modification subject to the EPA approval requirement?

Response: The super-compactor is a physical change to an existing source (Building 776). Using Appendix D to estimate emissions from the super-compactor shows an emission increase. Therefore, the super-compactor is a "modification" as defined under NESHAP regulations. Any comparison with past building emissions is not relevant.

3. Which construction and modification activities are subject to EPA approval?

Response: (a) Prospectively, all new construction activities and all modifications to all sources (including all diffuse and fugitive emission sources) that will cause any increases in radionuclide emissions are subject to prior EPA approval under 40 C.F.R. § 61.05. As we clarified at the meeting, activities that are covered by the CERCLA IAG are exempt from the approval requirement. In addition, diffuse and fugitive emission sources are limited to areas of soil contamination and other contaminated areas with potential radionuclide emissions greater than background levels. The requirement to obtain approval for all activities will continue in effect until EPA determines that Rocky Flats is no longer in violation of Subpart H.

EPA's determination will be based on our review of the monitoring studies presented on December 18. If the studies do not support a finding that the monitoring systems for all 63 vents either comply with required methodology or qualify for approval as alternative procedures, then the approval requirement for all new construction and modifications will continue until the monitoring systems are modified and come into compliance.

When EPA determines that Rocky Flats is in compliance with Subpart H, prior EPA approval will be required only for activities with de minimus emissions, as provided by 40 C.F.R. § 61.96(b) (emissions causing an effective dose equivalent in excess of one percent of the 10 millirem effective dose equivalent standard).

As we discussed on December 17, 40 C.F.R. § 61.07 requires that EG&G and DOE submit an application for approval for each new construction or modification. Failure to do so is a violation of the NESHAP requirements and the Clean Air Act.

(b) Retrospectively, Rocky Flats apparently has been in violation of the approval requirement since 1985, when the Radionuclide NESHAP was first adopted without any exemption for de minimus emissions. At this time, EPA requires DOE and EG&G to submit applications only for construction and modification activities that commenced construction since February 5, 1985 but are not yet in operation. These would include the super-compactor.

For other past construction activities and modifications that were subject to the approval requirement, EG&G and DOE should submit lists to EPA. Because we had focused initially on the period after December 15, 1989, you should provide an initial list of all activities that were undertaken after that date, and then prepare a list for the period between February 5, 1985 and December 15, 1989.

4. When must EG&G submit applications to EPA?

Response: At our meeting, EPA agreed to delay issuing a compliance order until we have had a chance to review the study results and determine the scope of the order. Nonetheless, we made it clear that EG&G and DOE must, from December 17 forward, submit applications to EPA for approval of all new activities that qualify as construction or modification. Failure to satisfy this requirement may call for EPA action before we complete our review.

Let me clarify the compliance status of Rocky Flats: Within 90 days after publication of the monitoring requirements on December 15, 1989, Subpart H required compliance with the monitoring protocols of 40 C.F.R. § 61.93. At our meeting, you admitted that at least two points, effluent duct 771-MAI and effluent duct 776-207, do not meet NESHAP requirements. Alternative procedures have not yet been approved for those points.

Therefore, Rocky Flats has been in violation of Subpart H since approximately March 15, 1990 and will continue to be in violation until EPA grants such approval or the non-complying monitoring systems are modified to meet NESHAP specifications. Neither completion of the studies nor future compliance will erase the period of violation.

We agree that Rocky Flats has also been in violation of the requirement to obtain EPA approval before constructing or modifying any source, since February 5, 1985. To help Rocky Flats attain compliance with the approval requirement, we encourage you to request a determination of applicability for any proposed construction or modification activities, under 40 C.F.R. § 61.06.

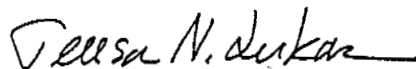
5. What monitoring of diffuse emission sources does Subpart H require?

Response: The radionuclide emission standard, 40 C.F.R. § 61.92, applies to all emissions to ambient air. Although Subpart H does not require continuous or even periodic monitoring of diffuse emission sources, DOE and EG&G must develop a source term, i.e., quantify emissions, for each area of contamination (Individual Hazardous Substance Site, or IHSS), so that all emissions from Rocky Flats can be factored into the calculation of effective dose equivalent. The source term is also necessary for calculating emissions from modifications to those diffuse sources.

Source terms for those areas should be included in the next annual report, due June 1993. As remedial, D&D, and industrial development activities occur within or affecting any IHSS, source terms may need to be revised to reflect increased emissions due to soil disturbance.

I hope these clarifications are helpful. If you have questions or comments, please call me at 294-7195.

Very truly yours,



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